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Federal Communications Commission
Office of the Secretary

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE
Washington, D.C. 20554

In the Matter of

Merits of Using Auctions to Determine
High-Cost Universal Service Support

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WC Docket No. 05-337
CC Docket No. 96-45

REPLY COMMENTS
OF THE
MONTANA TELECOMMUNICATIONS ASSOCIATION
OREGON TELECOMMUNICATIONS ASSOCIATION SMALL COMPANY COMMITTEE
AND
WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION

November 8, 2006

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INTRODUCTION

The Montana Telecommunications Association, the Small Company Committee of the Oregon Telecommunications Association and the Washington Independent Telephone Association (collectively the "Northwest Associations") hereby submit their Reply Comments in response to the Federal-State Joint Board on Universal Service ("Joint Board") Public Notice seeking comments on the merits of using auctions to determine high-cost universal service support. The members of the Northwest Associations that are participating in these Reply Comments are set out in Appendix A.

In the Opening Comments of the Northwest Associations, it was noted that there appear to be a number of practical problems related to the implementation of the reverse auction concept. The initial position of the Northwest Associations was that the concept of reverse auctions was worth discussion; however, it appeared that there were a number of questions that made implementation of reverse auctions difficult and even dangerous. The underlying concern for this position is whether reverse auctions can advance the goals for universal service set out in Section 254 of the Telecommunications Act of 1996 and provide the platform upon which deployment of broadband in rural America can occur. In the Opening Comments, the Northwest Associations noted that they would carefully consider the opening comments filed by others in formulating a position on reverse auctions.

What the opening comments of all parties filed in this docket underscore is that there is an insufficient record upon which to implement a broad based reverse auction system. There are too many unanswered questions. There are too many dangers that are highlighted in the opening comments.

I. There are a Number of Significant Concerns that Have Been Raised About the Concept of Reverse Auctions.

The record in this proceeding to date appears inadequate to design a workable reverse auction system on a broad basis. Some Commenters raised the basic questions of whether a reverse auction system would be compatible with existing FCC rules or, more difficult to overcome, would fit within the existing statutory scheme for universal service.¹ Many Commenters raise serious concerns about the effect that reverse auctions may have on the quality of service obligations.² Substantial administrative problems were pointed out by many of the Commenters.³

Perhaps the Comments of the Public Service Commission of the State of Missouri best summarizes the state of the record:

In summary, the MoPSC strongly supports the Commission's efforts to stabilize and maintain the USF, but suggests a reverse auction process is not a reasonable solution. As demonstrated in these comments there are many logistical and administrative issues that cause concern.⁴

The administrative problems associated with reverse auctions and the questionable ability of reverse auctions to provide a key mechanism for high-cost support are addressed in detail in the Comments of the National Telecommunications Cooperative Association and, in particular, in the paper of Professor Dale E. Lehman entitled "the Use of Reverse Auctions for Provision of Universal Service," which is Attachment A to those Comments. As Professor Lehman points out:

Much of the theoretical appeal of reverse auctions is dissipated under the actual conditions under which universal service will be provided. Regulators will need more foresight than they would like. They will need to specify universal service

¹ See, e.g., Comments of Rural Cellular Association at p. 9-11; Comments of TDS Telecommunications Corp. at p. 9-11.

² See, e.g., Comments of the Oklahoma Corporation Commission at p. 5-6.

³ See, e.g., Comments of CenturyTel, Inc. at p. 14-17.

⁴ Comments of the Public Service Commission of the State of Missouri at p. 7.

requirements far enough into the future to allow for the required investment incentives. They will need to know more about the most efficient market structure (single COLR, multiple, which technology, etc.) than they would like.⁵

As Professor Lehman concludes, the devil is in the details.⁶

The Northwest Associations agree that there are too many unanswered questions about reverse auctions. There also appear to be too many risks.

II. Reverse Auctions Risk Discouraging Investment in Rural Infrastructure.

Perhaps the most telling comments were submitted by two of the major sources of financing for rural infrastructure, CoBank and the Rural Telephone Finance Cooperative. In CoBank's Comments, CoBank points out that reverse auctions will have a negative affect on the cost of debt and availability of debt financing. CoBank comments as follows:

CoBank cautions the FCC on the use of auctions to determine high-cost universal service support funding (USF) to eligible telecommunications companies (ETCs) pursuant to Section 254 of the Communications Act of 1934. Reverse Auctions do not provide clarity in regard to federal cost recovery mechanisms to empower the best providers of basic and advanced telecommunications services in rural areas. Reverse auctions present more uncertainty because they are a risky approach to high-cost support, which will cause the cost of debt to increase. (Emphasis added.)⁷

CoBank concludes its Comments on reverse auctions as follows:

The result could be a failure for the rural ILEC to invest in advanced networks. Access to capital for these projects could disappear. This would threaten the 1996 Act's expanded definition of universal service if it removes the provider that is best positioned to develop these advanced services. This would be devastating for rural customers and businesses because their access to advanced information would be severely delayed if not impaired indefinitely. New FCC policies should spur the growth of broadband deployment, not inadvertently impede it.⁸

⁵ Attachment A to the National Telecommunications Cooperative Association Initial Comments at p. 22-23.

⁶ Attachment A to the National Telecommunications Cooperative Association Initial Comments at p. 24.

⁷ Comments of CoBank at p. 2.

⁸ Comments of CoBank at p. 4.

The Comments of the Rural Telephone Finance Cooperative (RTFC) are just as much to the point. RTFC points out that it has more than 2 billion dollars in outstanding loans to rural providers. RTFC then states its position on reverse auctions:

Reverse auctions (competitive bidding) to determine high-cost universal service funding for incumbent rural local exchange carriers (RLECs) will discourage investment in the rural telecommunications infrastructure and result in lesser quality service to rural Americans. Such a high-cost support regime will cause lenders to reconsider lending into rural telecom space. (Emphasis added.)⁹

When two of the major finance institutions for rural infrastructure issue comments that reverse auctions will increase risk, and thereby increase the cost for rural infrastructure, and lessen the availability of funds to build rural infrastructure, those comments should be paid a great deal of attention. Without the substantial debt financing that CoBank and RTFC provide, rural infrastructure would not be nearly as robust as it is today.

III. If Reverse Auctions are to be Used, Then They Should be Introduced Slowly.

Many of the Commenters noted that given the number of potential problems with reverse auctions, if reverse auctions are to be used as a tool for limiting the size of the high-cost fund, reverse auctions should be introduced slowly and in targeted markets. Several Commenters suggested that if reverse auctions are to be used, they be used for determining a single wireless ETC in areas where multiple wireless ETCs may exist.¹⁰ Even supporters of reverse auctions (which are limited in number) suggest a phased-in approach so that problems can be addressed.¹¹

⁹ Comments of Rural Telephone Finance Cooperative at p. 2.

¹⁰ See, e.g., Comments of TCA; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 14-16.

¹¹ For example, the Comments of CTIA – The Wireless Association® suggest starting only with the larger ETC areas in apparent recognition of the potential serious effect of problems with reverse auctions may have on the more rural areas.

IV. The First Step in Controlling the Growth of the High-Cost Fund Should be Removal of the Identical Support Rule. Not the Implementation of Reverse Auctions.

A common theme that flowed through many of the Opening Comments was that the Joint Board's consideration of reverse auctions is an important recognition of the need to address the growth of the high-cost fund. However, what many of the Opening Comments point out is that the first step should be to address the identical support rule, not introduce a complex, administratively difficult and risky proposal such as reverse auctions.¹²

As stated by CoBank, "The solution to the problem of increasing USF costs should focus on the sources of the problem, which is the support mechanism for competitive eligible telecommunications companies (CETCs) and the identical support rule. The sole cause of growth in the USF high-cost program funding has been for CETCs, which are not reimbursed on actual costs."¹³ The Northwest Associations agree that now is the time to address the identical support rule.¹⁴

¹² Comments of the Western Telecommunications Alliance at p. 27-29; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 7; Comments of Balhoff & Rowe, LLC on Behalf of the Independent Telephone and Telecommunications Alliance at p. 46.

¹³ CoBank Comments at p. 2.

¹⁴ The Northwest Associations also endorse the Commission's recent efforts more equitably to assess universal service contributions by expanding the wireless safe harbor and instituting a contribution safe harbor on interconnected VoIP traffic. The combination of 1) expanding the universal service contribution base to include all telecommunications providers and 2) imposing greater scrutiny over the distribution of universal service support through such means as eliminating the identical support rule will provide more reliable and effective results than venturing into the relatively unknown terrain of reverse auctions.

CONCLUSION

The Northwest Associations appreciate the opportunity to submit these Reply Comments. Based on the record in this docket, it does not appear that reverse auctions are the cure to the problem of the growing size of the universal service fund. The Northwest Associations suggest addressing the identical support rule as the first step in finding that cure.

Respectfully submitted this 8th day of November, 2006.

Montana Telecommunications Association
Oregon Telecommunications Association Small
Company Committee
Washington Independent Telephone Association

By: 

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APPENDIX A

Montana Telecommunications Association

3 Rivers Telephone Cooperative
Blackfoot Telephone Cooperative
CenturyTel of Montana
Frontier Communications
Hot Springs Telephone Company
Lincoln Telephone Company
Range Telephone Cooperative

Oregon Telecommunications Association Small Company Committee

Asotin Telephone Company d/b/a TDS Telecom
Beaver Creek Cooperative Telephone Company
Canby Telephone Association
Cascade Utilities, Inc.
Citizens Telecommunications Company of Oregon d/b/a Frontier Communications of Oregon
Colton Telephone Company
Eagle Telephone System, Inc.
Gervais Telephone Company
Helix Telephone Company
Home Telephone Company d/b/a TDS Telecom
Molalla Communications, Inc.
Monitor Cooperative Telephone Company
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telecommunications, Inc.
North-State Telephone Co.
Oregon-Idaho Utilities, Inc.
Oregon Telephone Corporation
People's Telephone Co.
Pine Telephone System, Inc.
Pioneer Telephone Cooperative
Roome Telecommunications Inc.
St. Paul Cooperative Telephone Association
Scio Mutual Telephone Association
Stayton Cooperative Telephone Company
Trans-Cascades Telephone Company

Washington Independent Telephone Association

Asotin Telephone Company d/b/a TDS Telecom
CenturyTel of Cowiche
CenturyTel of Washington
Ellensburg Telephone Company d/b/a FairPoint Communications
Hat Island Telephone Company
Hood Canal Telephone Co., Inc.
Inland Telephone Company
Kalama Telephone Company
Lewis River Telephone Company, Inc. d/b/a TDS Telecom
Mashell Telecom, Inc. d/b/a Rainier Connect
McDaniel Telephone Co. d/b/a TDS Telecom
Pend Oreille Telephone Company
Pioneer Telephone Company
St. John Co-operative Telephone and Telegraph Company
Tenino Telephone Company
The Toledo Telephone Co., Inc.
Western Wahkiakum County Telephone Company
Whidbey Telephone Company
YCOM Networks, Inc. d/b/a FairPoint Communications